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November 29, 2005

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**FILED ELECTRONICALLY BY ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby, TW-A325  
Washington, DC 20554

**Facility ID Number: 36912**

Re: MB Docket No. 05-317  
WSAZ-DT, Huntington, WV  
**TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST**

Dear Ms. Dortch:

Pursuant to the Commission's Public Notice DA 05-2979,<sup>1</sup> and Section 339 of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"),<sup>2</sup> Emmis Television License, LLC ("Emmis"), licensee of WSAZ-TV and permittee of WSAZ-DT, Huntington, West Virginia ("the station" or "WSAZ"), hereby requests a waiver to prohibit satellite subscribers from receiving or conducting digital signal strength tests to demonstrate the eligibility of such subscribers to import distant network signals within the WSAZ local service area. In support of said waiver, the following is shown.

WSAZ-TV is an NBC network affiliate serving Huntington, West Virginia. Huntington is ranked number 62 in the top 100 television markets. The station has

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<sup>1</sup> See Public Notice, *TV Station Requests for Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004 to be Filed by November 30, 2005 or February 15, 2007*, DA 05-2979, (rel. Nov. 17, 2005).

<sup>2</sup> See 47 U.S.C. § 339 as amended by Section 204 of the SHVERA.

Federal Communications Commission

November 29, 2005

Page 2

received a tentative channel designation on its allotted digital channel.<sup>3</sup> As such, under SHVERA, it will become subject to requests for tests of its digital signal beginning April 30, 2006. Requests for waiver of such testing may be filed no later than November 30, 2005, where any of six criteria specified in Section 339(a)(2)(D)(viii) are present, including a showing that the station's digital signal coverage area is limited due to use of a side-mounted antenna.

WSAZ-DT is authorized to operate with 724 kW at a height above average terrain ("HAAT") of 401 meters, using a top-mounted antenna. The station's analog antenna currently occupies the top-mounted position on the tower. To preserve analog service to the public until the end of the DTV transition, WSAZ's digital antenna is side-mounted immediately below the analog antenna, at a height of 388 meters HAAT. Although it is operating at full authorized power, the station requested a waiver of the Commission's July 1, 2005 use-it-or-lose-it deadline in order to retain interference protection for the area not currently being served by the digital signal, due to the reduced height of the side-mounted antenna.<sup>4</sup> Similarly, WSAZ hereby requests waiver of the digital signal testing provisions of SHVERA to protect any WSAZ digital "white area" resulting from the use of the side-mounted antenna from importation of distant NBC network signals. Grant of the waiver will serve the public interest by preventing fragmentation of WSAZ's digital service area while preserving service to current analog viewers.

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<sup>3</sup> See Public Notice, *Tentative Digital Channel Designations for Stations Participating in the First Round of DTV Channel Elections and Second Round Election Filing Deadline*, DA 05-2649, (rel. Oct. 4, 2005) at Attachment 1, pg. 29.

<sup>4</sup> See Request for Waiver of Replication/Maximization Interference Protection Deadline, dated June 17, 2005, attached hereto as Attachment A.

Wiley Rein & Fielding LLP

Federal Communications Commission

November 29, 2005

Page 3

This request is being filed electronically using the Commission's Electronic Comment Filing System. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in dark ink, reading "Marnie K. Sarver". The signature is written in a cursive, flowing style. The first name "Marnie" is followed by a middle initial "K." and the last name "Sarver".

Marnie K. Sarver

Attachment: July 17, 2005 Waiver Request

cc: Nazifa Sawez (*by USPS and electronic mail*)

ATTACHMENT A

**Federal Communications Commission**

WSAZ

**The FCC Acknowledges Receipt of Comments From ...  
Emmis Television License, LLC  
...and Thank You for Your Comments**

DTV waiver

**Your Confirmation Number is: '2005617959705 '****Date Received: Jun 17 2005****Docket: 03-15****Number of Files Transmitted: 1****DISCLOSURE**

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June 17, 2005

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**ELECTRONICALLY FILED  
(VIA ECFS)**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Facility ID Number: 36912**

**Re: MB Docket No. 03-15  
WSAZ-DT, Huntington, WV  
Request for Waiver of Replication/Maximization Interference  
Protection Deadline**

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Dear Ms. Dortch:

On behalf of Emmis Television License, LLC ("Emmis"), the licensee of digital television ("DTV") station WSAZ-DT, Huntington, West Virginia (Facility Id. No. 36912) ("WSAZ"), we hereby request a waiver of the July 1, 2005 replication/ maximization interference protection deadline for digital television stations affiliated with the top four networks in markets 1-100. *See Second Periodic Review of the Commission's Rules and Regulations Concerning the Transition to Digital Television*, MB Docket No. 03-15, FCC 04-192, ¶ 78 (rel. Sept. 7, 2004). This request is being filed electronically through ECFS pursuant to the FCC's public notice regarding requests for waiver of the deadline. *See Public Notice, DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/ Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, DA 05-1636 (rel. June 15, 2005).

Station WSAZ currently operates on NTSC channel 3 and DTV channel 23. As a top four network-affiliated station in one of the nation's top 100 markets that has chosen its digital channel for post-transition operation, the station is subject to the Commission's July 1, 2005 replication/ maximization interference protection deadline and must construct full, authorized facilities by that date. As explained below, WSAZ is unable to complete construction by that date, rendering a waiver of the deadline appropriate. *See id.* ¶ 87; *see also* 47 C.F.R. § 1.3.

June 17, 2005

Page 2

As explained in Emmis' November 19, 2004 filing,<sup>1</sup> the station's NTSC antenna is top-mounted on its tower at a height above average terrain ("HAAT") of 388 meters. To allow the station to provide digital service replicating its NTSC Grade B service, WSAZ was given a DTV allotment specifying an ERP of 444.5 kW and a HAAT of 388 meters. The station's current maximized DTV construction permit specifies 724 kW at a HAAT of 401.6 meters.<sup>2</sup> Until April, WSAZ was broadcasting digitally with another side-mounted antenna at 363.7 meters on the same tower and at reduced power, pursuant to special temporary authority. A request to modify WSAZ's existing STA to increase its power to full power (724 kW) was granted in May for a period expiring July 1, 2005. *See* FCC File No. BMDSTA-20050429AFH (granted May 23, 2005). A request to extend that STA is being filed concurrently, and a copy of that extension request is attached hereto.

Pursuant the FCC's replication/maximization interference protection deadline, WSAZ understands that the station must by July 1, 2005 be operating with facilities specified in its DTV permit. In order to meet this requirement, however, WSAZ would have to remove its NTSC antenna from the top of its tower and replace it with its DTV antenna.

The "swap" of WSAZ's NTSC and DTV antennas would require the expenditure of significant resources and would serve to disrupt and impair the station's current level of analog service to the public. The station is currently operating with the full facilities specified in its permit, except for being at its current side-mounted height, and intends to operate with such facilities until the end of the transition. At that time, it will replace its top-mounted analog antenna with its digital antenna and thereby provide service to its full "maximized" DTV contour.

A grant of the requested waiver would ensure that the station's interference protection is not limited to the DTV service area achieved on that date while avoiding the need for Emmis to expend substantial resources and sacrifice the

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<sup>1</sup> The November 19 filing was submitted pursuant to the public notice regarding special circumstances surrounding FCC Form 381 certifications. *See* Public Notice, *Electronic Mailbox Established for FCC Form 381*, DA 04-3495 (rel. Nov. 4, 2004).

<sup>2</sup> The 13.6 meter increase in height is due primarily to the much greater size of the Channel 3 analog antenna as compared to the much smaller Channel 23 digital antenna.

Wiley Rein & Fielding LLP

June 17, 2005

Page 3

quality of its analog service during the transition. Under these circumstances, Emmis submits that a waiver of the July 1, 2005 replication/maximization interference protection deadline is appropriate.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,

/S/

Marnie K. Sarver

cc (by email): Shaun Maher



Federal Communications Commission Washington, D.C. 20554	Approved by OMB 3060-0386 (July 2002)	FOR FCC USE ONLY
<b>Engineering STA</b>		FOR COMMISSION USE ONLY FILE NO. - 20050617ABG
Read Instructions/FAQ before filling out form		

**Section I - General Information**

1.	Legal Name of the Applicant EMMIS TELEVISION LICENSE, LLC		
	Mailing Address 3500 W. OLIVE AVENUE SUITE 1450		
	City BURBANK	State or Country (if foreign address) CA	Zip Code 91505 -
	Telephone Number (include area code) 8182380209		E-Mail Address (if available) MRICE@EMMIS.COM
	FCC Registration No 0004161410	Call Sign WSAZ	Facility ID Number 36912
2.	Contact Representative (if other than licensee/permittee) MARNIE K. SARVER		Firm or Company Name WILEY REIN & FIELDING LLP
	Mailing Address WILEY REIN & FIELDING LLP 1776 K STREET, NW		
	City WASHINGTON	State or Country (if foreign address) DC	ZIP Code 20006 -
	Telephone Number (include area code) 2027197000		E-Mail Address (if available) MSARVER@WRF.COM
3.	Purpose: <input checked="" type="radio"/> Engineering STA <input type="radio"/> Extension of Existing Engineering STA <input type="radio"/> Legal STA <input type="radio"/> Extension of Existing Legal STA		
4.	Service: DT		
5.	Community of License: City: HUNTINGTON State: WV		
6.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial Educational Licensee/Permittee <input type="radio"/> Other		

**TECHNICAL SPECIFICATIONS**

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

**TECH BOX**

7.1.	Channel: 23
7.2.	Zone: <input checked="" type="radio"/> I <input type="radio"/> II <input type="radio"/> III
7.3.	Antenna Location Coordinates: (NAD 27) Latitude:

Degrees 38 Minutes 30 Seconds 36 <input checked="" type="radio"/> North <input type="radio"/> South  Longitude: Degrees 82 Minutes 13 Seconds 10 <input checked="" type="radio"/> West <input type="radio"/> East	
7.4.	Antenna Structure Registration Number: 1035121 <input type="checkbox"/> Not Applicable <input type="checkbox"/> Notification filed with FAA
7.5.	Antenna Location Site      308.2 Elevation Above Mean      meters Sea Level:
7.6.	Overall Tower Height      327.3 Above Ground Level:      meters
7.7.	Height of Radiation      280.9 Center Above Ground      meters Level:
7.8.	Height of      363.7 meters Radiation Center Above Average Terrain:
7.9.	Maximum Effective      724 Radiated Power      kW (average):
7.10.	Antenna Specifications: <input checked="" type="radio"/> Nondirectional <input type="radio"/> Directional  a. Manufacturer DIE      Model TFU- 20DSC-R O4  b. Electrical Beam Tilt: 1 degrees <input type="checkbox"/> Not Applicable  c. Mechanical Beam Tilt: degrees toward azimuth degrees True <input checked="" type="checkbox"/> Not Applicable  d. Polarization: <input checked="" type="radio"/> Horizontal <input type="radio"/> Circular <input type="radio"/> Elliptical  Directional Antenna Relative Field Values: Rotation (Degrees): <input type="checkbox"/> No Rotation

Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value
0		10		20		30		40		50	
60		70		80		90		100		110	
120		130		140		150		160		170	
180		190		200		210		220		230	
240		250		260		270		280		290	
300		310		320		330		340		350	

Additional Azimuths									
8.	Please explain in detail the "extraordinary circumstances" which warrant temporary operations at variance from the Commission's Rules. In addition, please specify 1) the specific rules and/or policies from which the applicant seeks temporary relief; 2) how the public interest will be furthered by grant; and 3) the expected duration of the STA and the licensee's plan for restoration of licensed operation. If requesting variance with other than authorized technical facilities, please specify the exact facilities sought							[Exhibit 21]	
9.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.							<input checked="" type="radio"/> Yes <input type="radio"/> No	

I certify that I have prepared Engineering Data on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name D. SCOTT TURPIE		Relationship to Applicant (e.g., Consulting Engineer) CONSULTING ENGINEER	
Signature		Date (mm/dd/yyyy) 6/16/2005	
Mailing Address LOHNES AND CULVER 8309 CHERRY LANE			
City LAUREL	State or Country (if foreign address) MD		Zip Code 20707 -
Telephone Number (No dashes or parentheses, include area code) 3017764488		E-Mail Address (if available) SCOTT@LOCUL.COM	

I hereby certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.

Typed or Printed Name of Person Signing J. SCOTT ENRIGHT	Typed or Printed Title of Person Signing VICE PRESIDENT & SECRETARY
Signature	Date (mm/dd/yyyy) 6/16/2005

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

## Exhibits

### Exhibit 21

**Description:** STA CIRCUMSTANCES

SEE ATTACHED.

### Attachment 21

Description
Narrative Statement

WSAZ-DT  
Huntington, WV  
Facility Id. No. 36912

**STA CIRCUMSTANCES**

The applicant is currently operating pursuant to a reduced facilities STA that expires on July 1, 2005. *See* FCC File No. BMDSTA-20050429AFH. This request seeks special temporary authority to operate with the same facilities as the existing STA for an additional period of six months.

As explained fully in the request for waiver of the FCC's replication/maximization interference protection deadline that is being filed concurrently, WSAZ is unable to construct its full authorized DTV facilities by the July 1, 2005 deadline. The public interest will be served by a grant of the instant STA request, which will allow the station to continue to provide uninterrupted DTV service to the public throughout the remainder of the transition without degrading the station's existing level of analog service.

Accordingly, on behalf of Emmis, we hereby respectfully request extension of the STA for an additional six months.